

CERCLA Compliance with Other Laws Manual
Guide to Manual



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GUIDE TO MANUAL

The 1986 Superfund Amendments and Reauthorization Act (SARA) adopts and expands a provision in the 1985 National Contingency Plan (NCP) that remedial actions must at least attain applicable or relevant and appropriate requirements (ARARs). Section 121(d) of CERCLA, as amended by SARA, requires attainment of Federal ARARs and of State ARARs in State environmental or facility siting laws when the State requirements are promulgated, more stringent than Federal laws, and identified by the State in a timely manner. Under EPA regulation and policy, removal actions must comply with ARARs to the extent practicable.

To implement the ARARs provision, EPA has developed guidance, CERCLA Compliance with Other Laws Manual: Parts I and II (OSWER Directives 9234.1-01 and 9234.1-02, respectively). EPA is preparing a series of short fact sheets that summarize the guidance document (OSWER Directives 9234.2 series). This Fact Sheet provides a guide to the compliance manual. The compliance manual is based on policies set forth in the proposed December 21, 1988 revisions to the NCP. The final NCP may adopt policies different from those covered here and should, when promulgated, be considered the authoritative source.

I. PURPOSE OF MANUAL

The CERCLA Compliance with Other Laws Manual is intended to assist in the identification and evaluation of ARARs for removal and remedial actions. The manual provides guidance to Remedial Project Managers, On-Scene Coordinators, State personnel, and others responsible for or assisting in response actions under sections 104, 106, and 122 of CERCLA. The manual is also intended to assist in the selection of on-site remedial actions that meet the ARARs of the Resource Conservation and Recovery Act (RCRA), the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), the Clean Air Act (CAA), the Toxic Substances Control Act (TSCA), the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and other Federal and State environmental laws, as required by CERCLA section 121. In general, different ARARs for a site and its remedial action will be identified at various points in the remedy selection process.

II. DEFINITIONS OF ARARS

A requirement under other environmental laws may be either "applicable" or "relevant and appropriate," but not both. Identification of ARARs must be done on a site-specific basis and involves a two-part analysis: first, a determination of whether a given requirement is applicable; then, if it is not applicable, a determination of whether it is nevertheless both relevant and appropriate.

DEFINITIONS:

- **Applicable requirements** are those cleanup standards, standards of control, and other substantive environmental protection requirements, criteria, or limitations promulgated under Federal or State law that specifically address a hazardous substance, pollutant, contaminant, remedial action, location, or other circumstance at a CERCLA site.
- **Relevant and appropriate requirements** are those same standards mentioned above that while not "applicable" at the CERCLA site, address problems or situations sufficiently similar to those encountered at the site that their use is well suited to the particular site.

On-site actions are required to comply with ARARs, but must comply only with the substantive parts of an applicable or relevant and appropriate requirement. Off-site actions must comply only with legally applicable requirements, but must comply fully with both substantive and administrative requirements.

III. CONTENTS OF MANUAL

Part I describes general procedures for identifying ARARs and complying with ARARs in RCRA, CWA, SDWA, and ground-water policies. Part I is organized as follows:

- **Chapter 1, General Procedures for CERCLA Compliance with Other Statutes** - defines the terms "applicable" and "relevant and appropriate," describes general procedures for identifying and analyzing requirements, identifies waivers from ARARs, and provides matrices listing types of potential ARARs from RCRA, CWA, and SDWA.
- **Chapter 2, Guidance for CERCLA Compliance with RCRA** - discusses RCRA hazardous waste requirements and policies for determining when RCRA requirements are ARARs for CERCLA actions, including what actions at a CERCLA site constitute "disposal," as defined by RCRA.
- **Chapter 3, Guidance for Compliance with Clean Water Act Requirements** - provides guidance for compliance with CWA substantive requirements for direct discharges, indirect discharges, and dredge-and-fill activities.
- **Chapter 4, Guidance for Compliance with Requirements of the Safe Drinking Water Act** - provides guidance for compliance with SDWA requirements that may be ARARs, including drinking water standards and the requirements for underground injection control, sole-source aquifers, and the wellhead protection program.
- **Chapter 5, Ground Water Protection Policies** - discusses ground-water classification, provides guidance on consistency with policies for ground-water protection, and includes a hypothetical scenario for illustrating how ARARs are identified and used.
- **Appendix A** provides an overview of the major environmental statutes and regulations covered in Part I.

Part II of the manual describes general procedures for complying with ARARs in CAA, TSCA, FIFRA, other resource protection statutes, mining waste statutes, and State ARARs. Part II is organized as follows:

- **Chapter 1, Introduction and Overview** - provides an introduction and overview of Part II of the guidance manual and includes matrices of potential ARARs covered in Part II.

- **Chapter 2, Clean Air Act Requirements and Related RCRA and State Requirements** - provides guidance for compliance with CAA requirements (including the National Ambient Air Quality Standards, the National Emissions Standards for Hazardous Air Pollutants, and the New Source Performance Standards) and related RCRA and State requirements for air emissions.
- **Chapter 3, Standards for Toxics and Pesticides** - provides guidance for compliance with statutes (i.e., TSCA and FIFRA) that address toxic substances (particularly PCBs) and pesticides.
- **Chapter 4, Other Resource Protection Statutes** - provides guidance for compliance with other resource protection statutes, including the National Historic Preservation Act, the Archeological and Historic Preservation Act, the Endangered Species Act, the Wild and Scenic Rivers Act, the Fish and Wildlife Coordination Act, the Coastal Zone Management Act, and the Wilderness Act.
- **Chapter 5, Standards, Advisories, and Guidance for the Management of Radioactive Waste** - discusses potential ARARs and potentially useful guidance for cleaning up radioactively contaminated sites and buildings. Major acts discussed include the Uranium Mill Tailings Radiation Control Act, the Atomic Energy Act, the Nuclear Waste Policy Act, CAA, and CWA.
- **Chapter 6, Potential ARARs For CERCLA Actions at Mining, Milling, or Smelting Sites** - provides guidance for compliance with statutes incorporating standards for mining, milling, or smelting sites, including the Surface Mining Control and Reclamation Act and RCRA.
- **Chapter 7, CERCLA Compliance with State Requirements** discusses eligibility requirements for State programs, specific types of State laws (e.g., siting requirements), and procedures for communicating State ARARs.
- **Appendix A** provides guidance for compliance with CAA Part C requirements under the Prevention of Significant Deterioration program.
- **Appendix B** describes Federal/State relationships under major Federal environmental statutes, including whether the statute allows for State authorization of the program and whether the State provisions are identical or more stringent than the Federal requirements.